

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Thomas Wilson DBA
Redman CB Stop
www.redmancb.com

Absecon, New Jersey

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File No.: EB-FIELDNER-13-00011682
Citation No.: C201432400001

CITATION

Illegal Marketing of Unauthorized Radio Frequency Devices

Adopted: March 5, 2014

Released: March 5, 2014

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION** (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act),¹ to Thomas Wilson dba Redman CB Stop (Redman CB Stop). Specifically, Redman CB Stop is being cited for marketing to consumers in the United States unauthorized radio frequency devices in violation of Section 302(b) of the Act,² and Sections 2.803, and 2.815(b) of the Commission's rules (Rules).³

2. Notice of Duty to Comply With Laws: Redman CB Stop should take immediate steps to discontinue the marketing of unauthorized radio frequency devices, and to avoid any recurrence of the misconduct described herein. Redman CB Stop is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Section 302(b) of the Act or Sections 2.803, and 2.815(b) of the Rules, it may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures) and seizure of equipment. Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.⁴

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§ 2.803, 2.815(b).

⁴ See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.") (emphasis added).

II. BACKGROUND

3. Redman CB Stop is an online retailer of Citizen Band (CB) and Amateur Radio Service (ARS) radios, linear amplifiers, and radio accessories at www.redmancb.com (Redman CB Website). On October 15, 2013, and October 17, 2013, in response to a complaint, an agent with the Enforcement Bureau's Philadelphia Office (Philadelphia Office) browsed the Redman CB Website and observed for sale 16 makes and models of non-certified RF power amplifiers capable of operation with both CB 11 meter transceivers and ARS 10 meter transceivers.⁵ Examples of the non-certified RF amplifiers observed on the Redman CB Website included the Fatboy 900 Mobile Amplifier, Zombie Products 500 Watt ERP Linear Amplifier 2290 Driver, and the Palomar FET 450 HD Export Ham Radio Mosfet Linear Amplifier. According to Commission records, these devices have not received an FCC grant of certification, which is required for external radio frequency power amplifiers operating on frequencies below 144 MHz and marketed in the United States.⁶ In addition, Section 2.815(b)(1) of the Rules prohibits persons from offering for sale any external radio frequency power amplifier that is capable of amplification in the CB Band, *i.e.*, between 26 MHz and 28 MHz.⁷

III. APPLICABLE LAW AND VIOLATIONS

4. Federal law requires that radio frequency devices must be certified in accordance with the Commission's technical standards before they can be marketed in the United States.⁸ Section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section."⁹

5. The applicable implementing regulations for Section 302(b) are set forth, *inter alia*, in Sections 2.803 and 2.815 of the Rules.¹⁰ Section 2.803 of the Rules provides, in relevant part, that:

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) General rule. No person may market a radio frequency device unless: (1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter; or (2) For devices subject to authorization under verification or Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling,

⁵ The 10 meter band is 28.0-29.7 MHz. See 47 C.F.R. § 97.301. The 11 meter band is 26.965-27.405 MHz. See 47 C.F.R. § 95.407.

⁶ See 47 C.F.R. § 2.815(b).

⁷ 47 C.F.R. § 2.815(b)(2).

⁸ See, e.g., *Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices*, Report and Order, 12 FCC Rcd 4533 (1997).

⁹ 47 U.S.C. § 302a(b).

¹⁰ 47 C.F.R. §§ 2.803, 15.3(o).

identification and administrative requirements. . . .¹¹

Section 2.815(b) of the Rules provides that external radio frequency power amplifiers¹² capable of operation on frequencies below 144 MHz may not be offered for sale unless they have first been authorized in accordance with the Commission's certification procedures.¹³ Section 2.815(b)(1) of the Rules prohibits persons from offering for sale any external radio frequency power amplifier that is capable of amplification in the frequency band between 26-28 MHz.¹⁴

6. The record in this case shows that, on October 15, 2013, and October 17, 2013, Redman CB Stop offered for sale on the Redman CB Website, to customers in the United States, several makes and models of non-certified external RF power amplifiers that are capable of operating in both the CB 10 meter band (28.0-29.7 MHz) and the ARS 11 meter band (26.965-27.405 MHz). Specifically, the devices observed on the Redman CB Website were non-certified devices capable of operating on frequencies below 144 MHz, in violation of Section 2.815(b) of the Rules, and capable of amplification in the frequency band between 26-28 MHz, in violation of Section 2.815(b)(1). Based on the foregoing evidence, we find that Redman CB Stop violated Section 302(b) of the Act and Sections 2.803 and 2.815(b) of the Rules by marketing and offering for sale in the United States unauthorized radio frequency devices that do not have valid FCC certifications and, to the extent the devices operate in the frequency band between 26-28 MHz, are not eligible to receive FCC certification.¹⁵

IV. RESPONDING TO THIS CITATION

7. Redman CB Stop may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

8. If you would like to arrange a teleconference or personal interview, please contact David Dombrowski at (215) 741-3016. The nearest Commission Field Office is located in Langhorne, Pennsylvania. Such teleconference or interview must take place within thirty (30) calendar days of the date of this Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 10, below.

9. All written communications should be provided to the address below.

¹¹ 47 C.F.R. § 2.803(a)–(b). Section 2.807(b) of the Rules provides that radio frequency devices manufactured solely for export are exempt from the requirements of Sections 302(c) of the Act and Section 2.803 of the Rules. 47 C.F.R. § 2.807(b). We note, however, that the exemption applies only to devices that are actually exported and therefore an “export only” disclaimer provided on a website that offers devices for purchase in the United States would not qualify a manufacturer for an exemption under Section 2.807(b) of the Rules. *See e.g., Inter Tech FM*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 9020 (Enf. Bur. 2009)(finding that the exemption in Section 2.807(b) only applies to devices that the manufacturer actually exports).

¹² An external radio frequency power amplifier is defined as “any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.” *See* 47 C.F.R. § 2.815(a).

¹³ 47 C.F.R. § 2.815(b).

¹⁴ 47 C.F.R. § 2.815(b)(2).

¹⁵ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 2.814(b).

David C. Dombrowski
Re: EB-FIELDNER-13-00011682
Federal Communications Commission
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

10. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

11. Please be advised that it is a violation of Section 1.17 of the Commission's rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.¹⁶

12. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

13. If you violate Section 1.17 of the Commission's rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.¹⁷

14. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

¹⁶ 47 C.F.R. § 1.17.

¹⁷ 47 U.S.C. § 503.

VI. FUTURE VIOLATIONS

15. If, after receipt of this Citation, Redman CB Stop again violates Section 302(b) of the Act or Sections 2.803 and 2.815(b) of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation, and up to \$112,500 for any single act or failure to act.¹⁸ For instance, the Commission could impose separate forfeitures for each non-certified RF amplifier for use in the 10-12 meter bands sold or for each day on which such a device is advertised or otherwise offered for sale. Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.¹⁹ In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,²⁰ as well as criminal sanctions, including imprisonment.²¹

V. ORDERING CLAUSES

16. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Thomas Wilson dba Redman CB Stop at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
District Director
Northeast Region
Enforcement Bureau

¹⁸ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹⁹ See paragraph 2, *supra*.

²⁰ See 47 U.S.C. § 510.

²¹ See 47 U.S.C. §§ 401, 501.